

**Polk County Fire Rescue
Board of County Commissioners**

**Administrative Investigation
Case #2019-AC-0001**

**Subject Member(s):
F/PM Michael Ruby**

**DUE:
April 21, 2019**

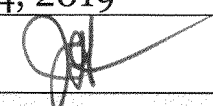


**Investigation Conducted By:
Investigator Daniel Cone
Office of Professional Standards**

Case File Routing Form #2019-AC-0001

Assigned to:

Office of Professional Standards X

Supervisor

ROUTING SCHEDULE	DATE
Original Incident Date	Unknown
Date Initially Reported to PCFR Personnel	January 2, 2019
Date of Informal Inquiry Completed (If applicable)	January 15, 2019
Complaint Forwarded to County Manager's Office for Determination	January 21, 2019
Determination Forwarded to Office of Professional Standards (OPS)	January 21, 2019
Administrative/Field Investigation Start Date	January 21, 2019
Administrative / Field Investigation Due Date	April 21, 2019
Administrative /Field Investigation Completed Date	February 4, 2019
Case Forwarded to OPS for Sufficiency Review (Investigations Assigned to Supervisors Only)	
Case Sent to County Manager's Office for Review	February 4, 2019
Case Forwarded to Command Review	2/6/19 
Command Review Due Date	
Chain of Command Meeting (If Applicable)	
Notice of Intent to Discipline (If Applicable)	
Pre-Disciplinary Hearing (If Applicable)	
Employee Action Form Completed	3/11/19 
Investigative Case File Closed (Returned to OPS)	3/12/19 

Cone, Daniel

From: Calcutt, Jeff
Sent: Wednesday, January 09, 2019 3:03 PM
To: Cone, Daniel
Subject: FW: [EXTERNAL]: Regarding Firefighter Mike Ruby's Unprofessional Social Media Behavior

From: Brooke Boswell [<mailto:btboswell4@gmail.com>]
Sent: Wednesday, January 2, 2019 12:53 PM
To: Stravino, Tony <TonyStravino@polk-county.net>
Subject: [EXTERNAL]: Regarding Firefighter Mike Ruby's Unprofessional Social Media Behavior

To whom it may concern,
Good afternoon, Myself and several others have noticed some concerning and unprofessional conduct on social media sites such as Snapchat and Instagram on one of your Fire Medic's profiles.

Mike Ruby posted CAD notes and a "graphic photo" of the back of the rescue yesterday on his Snapchat and was confronted by somebody about the lack of respect for the patient's dignity and privacy. FF Mike Ruby also posted a video of air rescue leaving with the patient if that context helps you identify the specific incident.

This employee evidently became defensive and asked why the photos were screenshotted and then he promptly blocked the concerned citizen from his shapchat account.

This strikes me as an obvious sign of wrongdoing or guilt. I hope that you are able to address this matter with the FF/Paramedic and I wish that my identity remain anonymous in regards to my complaint.

It would be exceptionally easy to correlate pictures like the ones I've attached, to a news article from yesterday of the motorcycle accident and potentially breach the patient's privacy and HIPAA.

I understand that Polk County Fire Rescue holds strong values and is an excellent agency, however, this behavior is distasteful and FF Ruby doesn't seem to be aware of the consequences of posting seemingly harmless pictures on social media platforms. Thank you for your time and be safe.

Regards,
B.B
Flight Medic



Polk County Fire Rescue

Office of Professional Standards – Supplemental Report

File # 2019-AC-0001

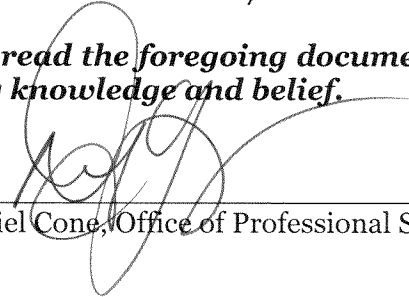
On **February 28, 2019**, I obtained a second statement from F/PM Ruby. The interview was conducted at Polk County Fire Rescue Headquarters located at 1295 Brice Blvd., Bartow, FL. Battalion Chief Jeff Fussell was also present. The purpose of the second interview was to determine as to whether or not F/PM Ruby still possessed any images captured while he was on duty which were subsequently shared via social media. Ruby advised he had deleted all work related images he had taken previously and he has not taken any additional pictures while working. He further stated he had closed the Snapchat account he had used previously to share images.

At the conclusion of the interview F/PM Ruby agreed to allow me to review all the images on his cellular telephone. I reviewed over 1,000 images to include images that predate his employment with Polk County Fire Rescue. I did not observe any images that appeared to be work related of the kind previously shared or any images depicting actions or post actions of any call for service F/PM Ruby may have worked.

I, the undersigned, do hereby swear that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in applicable Florida State Statutes and/or CBA's.

I declare that I have read the foregoing document and that the facts stated in it are true to the best of my knowledge and belief.

Investigator:


Daniel Cone, Office of Professional Standards

Date: 2-28-2019

(The following may contain unintelligible or misunderstood words due to the recording quality.)

INV. CONE: Good morning. Today's date is February 28th, 2019. The time is now approximately 10:35 a.m. Uh, persons present are the speaker, Daniel Cone, Professional Standards Investigator with Polk County Fire Rescue, uh, Firefighter/Paramedic Michael Ruby, uh, who is providing, uh, a statement, and Battalion Chief Jeff Fussell is also present.

Uh, Michael, um, I've been asked to clarify a couple of questions in regard to the -- the investigation and the interview we conducted previously. Um, so I need to advise you to consider yourself still under oath and all the rules that apply in the previous interview are in effect. Um, your obligation to cooperate and your protection's under Garrity. Do you understand that?

F./P. RUBY: I do.

INV. CONE: Okay.

F./P. RUBY: I understand.

INV. CONE: Um, I have two questions that they asked me to clarify. And the -- the first one, um, is, um -- you know, the investigation is revolve -- involving some images that were posted on social media. And I need to ask if you still have any of those images on your phone or any other device.

F./P. RUBY: I don't have any of the images. I erased everything after that happened as well. And I also erased Snapchat. And I have a different one where it's just a couple of friends, maybe 20 people or so. And, uh, since then, I have not taken any pictures or posted anything.

INV. CONE: So -- so you deleted your old Snapchat account and -- and created a new one? Is that what --

F./P. RUBY: Right.

INV. CONE: -- you're saying?

F./P. RUBY: And as I mentioned before, Snapchat, it's like -- as you take a video or picture, within 24 hours, it's already gone. So --

INV. CONE: Right.

F./P. RUBY: -- it doesn't save.

INV. CONE: Right.

F./P. RUBY: So it's not like there's a gallery of just a bunch --

INV. CONE: Okay.

F./P. RUBY: -- of stuff that's collected.

INV. CONE: Would you be willing to -- to let Chief Fussell and I look at your phone just to -- just to review any images that may be on there?

F./P. RUBY: To go through Snapchat?

INV. CONE: Not Snapchat, just images that might be saved on your phone.

F./P. RUBY: Uh, pertaining to this case in particular?

INV. CONE: Yes.

F./P. RUBY: I don't mind.

INV. CONE: Okay.

F./P. RUBY: Is something I have to give to or --

INV. CONE: Okay.

F./P. RUBY: -- something to give consent to or --

INV. CONE: Well, we would like you to do that. Yes.

F./P. RUBY: Okay. And what's the option if I don't?

INV. CONE: Uh, well, I need to advise you that -- that per the policy, there is a policy that says if you're using something to take images, that you're -- you're supposed to let us look at that. So --

F./P. RUBY: Okay. I don't mind.

INV. CONE: Okay. Uh, well, then we will -- when we conclude this, we will -- we will -- we'll do that real quick. Um, again, I need to ask you, is there anything that you'd like to add that -- that we haven't talked about or --

F./P. RUBY: No.

INV. CONE: And you -- you mentioned that you deleted your old Snapchat account. You've got a new one set up. But --

F./P. RUBY: Uh-huh.

INV. CONE: -- uh, other than that, anything? And you haven't taken any images or posted anything work-related since --

F./P. RUBY: Right.

INV. CONE: -- since the previous incident.

F./P. RUBY: Correct.

INV. CONE: Okay. Chief, do you have anything?

BATT. CHIEF FUSSELL: No, sir.

INV. CONE: All right. Well, that will conclude this second statement. The time is now approximately 10:37 a.m. It is still the 28th of February 2019.

(CONCLUSION OF INTERVIEW)

Transcribed by: ngj/ngj/ncc



Polk County Fire Rescue

Office of Professional Standards – Investigative Report

File # 2019-AC-0001

On **January 15, 2019**, the Polk County Fire Rescue Professional Standards Office received a citizen complaint from **Brooke Boswell**, in reference to allegations that **F/PM Michael Ruby** violated department policy. On **January 21, 2019**, Deputy County Manager **Joe Halman** ordered an Administrative Investigation into these allegations.

Nature of Complaint:

F/PM Ruby posted images relating to his work as a paramedic on social media. The images were apparently taken while on duty and depicted an actual call for service to which PCFR responded.

Interviews:

Brooke Boswell – Complainant

On **January 17, 2019**, I conducted an interview with the complainant, **Brooke Boswell**. Due to the fact the complainant resides in south Florida the interview was conducted via telephone and was no audio recorded. The following is a summary of **Boswell's** sworn testimony.

Boswell said she was not in the social media group that received the photos but she was approached by someone who was disturbed by the pictures and asked her opinion to see if they were overreacting or if they were wrong to be bothered by the images. Boswell said she looked at the photographs and felt like they were inappropriate, unprofessional and in poor taste. Boswell said she also felt like the images could possibly have violated a person's privacy especially if people viewing them were able to determine when and where the call for service was located. She said she feels like when people see these types of images they would have a negative view of individuals working in the fire services.

Boswell said this person told her Ruby posts things on a regular basis and that is why he approached her because it was beginning to bother him. She said this person would like to be anonymous but she said she would pass on my information so he could decide whether or not to contact me regarding this complaint.

Shane Boswell – Complainant

On **January 17, 2019**, I conducted an interview with the complainant, **Shane Boswell**. **Shane** contacted this investigator via telephone after speaking with his sister Brooke Boswell who provided him with my contact information. Due to the fact the complainant resides in south Florida the interview was conducted via telephone and was no audio recorded. The following is a summary of **Shane Boswell's** sworn testimony.



Shane said he is Brooke Boswell's brother and has known F/PM Ruby since they were in middle school. He said he was the person who reached out to Brooke and shared the pictures with her. He said Ruby posts things frequently and it seems as if he is "bragging" about what he does at work. Shane said he feels like the members who work in the Fire Services should be held to a higher standard and did not think the pictures were appropriate and they were in bad taste.

Shane said when he decided to ask his sister about the pictures he took a screen shot of them and when he did Ruby contacted him via social media and asked him why he took the screen shots. Shane said he did not respond and the next time he took a screen shot Ruby asked him again why he was taking screen shots and when Shane again did not respond back Ruby blocked him from his snapchat group.

Shane said he knew Ruby in middle school and they are "friends" on social media but he does not associate with him. He went on to say he does not wish to get anyone in trouble he just felt like the photographs being posted were unprofessional and in poor taste and someone should make sure it is addressed. Shane said he knows Ruby is going to know he is the one who called but he does not think there will be any trouble.

F/PM Michael Ruby – Subject Member

On **January 28, 2019**, I obtained a sworn audio-recorded statement from **F/PM Michael Ruby**, who is listed as a subject member in this complaint. **Ruby** waived his right to representation prior to the beginning of this administrative interview. **Ruby** was given the Garrity Warning prior to the interview. The interview was conducted at the BoCC Administration Building located at 330 W. Church Street, Bartow, FL. The following is a summary of **Ruby's** sworn testimony.

In addressing the photos seen in the screen shots provided by the complainant Ruby said the first picture was of his truck in the bay at the station. He said he was doing some work on his truck and it was dark and rainy outside so he pulled it into the bay. He said he tried to be discreet and not post anything identifying Polk Fire Rescue.

The second picture he discussed was of the ambulance floor showing blood on the floor. Ruby admitted this picture was "a bit graphic" and probably should not have been posted. He again said he tried to ensure there were no HIPAA violations and nothing with any patient information displayed and nothing that identified Polk Fire Rescue.

The last photo was of the CAD screen showing a note from the call. Ruby said he tried to ensure there was no patient information shown but he recognized the fact it was offensive to someone.

Ruby said he took the photos at work and they were posted on Snapchat with the exception of the picture of his truck that was posted on Instagram. Ruby said he has posted pictures taken at work before but he does not know how many times, maybe five or six other times. He said he only posted pictures on Snapchat because they go away after 24 hours. He said he would not have posted anything on any social media where the pictures would be permanently viewable.

Ruby said he was not familiar with the agency's social media policy or the policies governing digital images and public records. He said he has not posted anything since this all came to light and he is not going to post things in the future.



Evidence:

Screen shots attached to the email sent by the complainant.

Findings:

On January 2, 2019 Fire Chief Anthony Stravino received an email with a complaint regarding F/PM Michael Ruby.

Attached to the email were three images the complainant stated Ruby had posted to social media.

One image was a photo of the CAD screen which showed the notes in relation to a vehicle accident in which PCFR was responding. The note indicated the patient's leg was being held in place by a belt.

The second photo showed the back of an ambulance after a call. Clearly visible on the floor of the ambulance was a significant amount of blood as well as the discarded waste of medical supplies.

The third photo shows a red pickup truck in the bay of one of the stations. It does not show any people nor does it depict any item identifying the station or agency.

The complainants both indicated they thought the images were inappropriate, in poor taste and unprofessional.

When interviewed by this investigator F/PM Ruby admitted to taking the photos and posting them on social media.

The photo of the truck was posted on Instagram and the other two photos were posted on Snapchat.

Ruby admitted he should not have posted the photos but at the time he did not think anything about it.

Ruby said he was careful not to include anything in his photos that would identify either PCFR or the patient.

Ruby said this is not the first time he has posted items on social media from work but he says he would usually on post to Snapchat since the pictures "time-out" and disappear after 24 hours.

Ruby said he is not sure how many times in the past he has posted items but from this point forward he would no longer post any items.

Ruby said he was not totally familiar with the agency's policies on such things but he was going to take the time to review the appropriate policies.

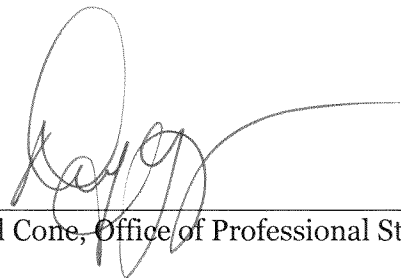
Upon initiating this investigation this investigator accessed F/PM Ruby's Facebook and Instagram accounts to determine if any images in violation of agency policy had been posted. I did not observe any such images.



I, the undersigned, do hereby swear that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in applicable Florida State Statutes and/or CBA's.

I declare that I have read the foregoing document and that the facts stated in it are true to the best of my knowledge and belief.

Investigator:



Daniel Cone, Office of Professional Standards

Date: 2-4-2019



Polk County Fire Rescue

Office of Professional Standards

NOTICE OF INVESTIGATION- Fire Rescue Personnel

TO: FF/PM Michael Ruby

FROM: BC Chris Hancock

DATE: 1/3/2019

File# TBD

Pursuant to Florida State Statute (Firefighters Bill of Rights) and/or the Polk County Fire Rescue Manual, you are hereby notified of a formal administrative investigation being conducted in which your actions are under examination for possible violation of the Polk County Board of County Commission (BoCC) Employee Handbook, and/or the Polk County Fire Rescue (PCFR) Policy and Procedure Manual. **This is not a criminal investigation.**

The nature of the administrative investigation is the search for, and marshalling of evidence of your actions and/or inactions, if any, that would support a finding of, or constitute (a) violation(s) of the Polk County Board of County Commission (BoCC) Employee Handbook, and/or the Polk County Fire Rescue (PCFR) Policy and Procedure Manual.

The administrative investigation will be conducted in a manner specifically and narrowly related to this complaint. The known detail of the complaint against you is summarized as follows:

The Office of the Fire Chief has received a complaint against FF/PM Michael Ruby involving social media posts that are in violation of the BoCC's and PCFR's Social Media Policy.

The complainant in this investigation is External Citizen.

The investigation has been ordered by Fire Chief Stravino.

The investigation is being conducted by _____.



This document shall serve as notice of management's intention to conduct a formal investigation regarding the above listed allegations. This administrative investigation will be conducted in accordance with provisions established in the Polk County Fire Rescue Policy and Procedure Manual, which may require you to participate in an audio recorded administrative interview. In the event this occurs, sufficient notice will be provided as to the date and time of your administrative interview. You are permitted to have a representative of your choice present with you during the administrative interview. It is your responsibility to arrange to have your chosen representative in attendance at the scheduled date and time of your administrative interview.

You are ordered not to discuss this administrative investigation, your testimony in this investigation, or any other testimony or evidence relevant to the administrative investigation of which you have knowledge (except with your legal counsel and/or chosen representative) until such time as this investigation is closed and you have received written notification of same by the property authority.

(I have been provided a copy of Sections 112.80, 112.81, 112.82, 112.83, and 112.84 of the Florida Statutes (includes "Firefighter's Bill of Rights)).

MR

Initials

ACKNOWLEDGEMENT OF RECEIPT

I, Michael Rubli do hereby acknowledge receipt of this notice on the 3 day of January, 2019.

[Signature]
Signature

Michael Rubli
Printed Name

[Signature]
(Witness) Signature

Chris Hancock
Printed Name





Polk County Fire Rescue

Office of Professional Standards

NOTICE OF INTERVIEW – SUBJECT MEMBER

TO: F/PM Michael Ruby

FROM: Daniel Cone, Office of Professional Standards

DATE: January 23, 2019

Your investigative interview for **FILE #2019-AC-0001** has been scheduled for **January 28th, 2019** at **1000** hrs. This interview will be conducted at the Polk County BoCC Administration Building located at 330 W. Church Street, Bartow, FL. Come to the County Manager's Office on the fourth floor.

If you intend to have a representative present, please advise the assigned investigator prior to the date of your investigative interview. It is your responsibility to have your representative with you at the time of this scheduled interview.

Under certain circumstances, arrangements can be made to reschedule the investigative interview. However, unless we hear from you otherwise, we will be prepared to conduct this interview at the designated time.

Please report to the location listed in this notice on the designated date and time. Your promptness is expected and appreciated. Failure to comply with any portion of this notice may result in disciplinary action.

ACKNOWLEDGEMENT OF RECEIPT

I, **Michael Ruby** do hereby acknowledge receipt of this notice on the 23rd day of Jan, 2019.



Signature

Michael Ruby

Printed Name



(Witness) Signature

Range Gentry

Printed Name





Polk County Fire Rescue

Office of Professional Standards

GARRITY NOTICE

You are hereby advised that I intend to question you as part of an official administrative investigation being conducted by the Polk County Fire Rescue Division. The purpose of this Garrity Warning is to protect you from compelled self-incrimination during the administrative interview.

You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and Constitution of the State of Florida and the Constitution of the United States, including the right not be compelled to incriminate yourself.

Pursuant to the Polk County Fire Rescue Division SOP and/or the Polk County Board of County Commissioners (BoCC) Employee Handbook, you are required to answer my questions fully and truthfully. If you refuse to testify or answer all questions relating to the performance of your official duties or fitness for office, you may be subject to separate disciplinary action, to include the termination of your employment.

Your statements or any information or evidence relating to this administrative investigation that is gained by reason of such statements, cannot be used against you in any criminal legal proceeding **(except for perjury or obstruction of justice charges)**. However, your statements may be used against you in other administrative and/or disciplinary action(s) taken against you. As such, you are ordered to answer all questions fully and truthfully.

ACKNOWLEDGEMENT OF RECEIPT

I, Michael Ruby do hereby acknowledge receipt of this notice on the 3 day of

January, 2019.

[Signature]
Signature

Michael Ruby
Printed Name

[Signature]
(Witness) Signature

Chris Hancock
Printed Name





Polk County Fire Rescue

Office of Professional Standards

ADVISEMENT OF PERJURY

Administrative/Field Investigations

837.02 Perjury in official proceedings.—

(1) Except as provided in subsection (2), whoever makes a false statement, which he or she does not believe to be true, under oath in an official proceeding in regard to any material matter, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever makes a false statement, which he or she does not believe to be true, under oath in an official proceeding that relates to the prosecution of a capital felony, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Knowledge of the materiality of the statement is not an element of the crime of perjury under subsection (1) or subsection (2), and the defendant's mistaken belief that the statement was not material is not a defense.

837.021 Perjury by contradictory statements.—

(1) Except as provided in subsection (2), whoever, in one or more official proceedings, willfully makes two or more material statements under oath which contradict each other, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever, in one or more official proceedings that relate to the prosecution of a capital felony, willfully makes two or more material statements under oath which contradict each other, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) In any prosecution for perjury under this section:

(a) The prosecution may proceed in a single count by setting forth the willful making of contradictory statements under oath and alleging in the alternative that one or more of them are false.

(b) The question of whether a statement was material is a question of law to be determined by the court.

(c) It is not necessary to prove which, if any, of the contradictory statements is not true.

(d) It is a defense that the accused believed each statement to be true at the time the statement was made.

837.06 False official statements.—

Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

ACKNOWLEDGEMENT OF RECEIPT

I have read the preceding excerpt from Chapter 837, Florida State Statutes, and understand that it is a criminal act to make false statements in an official proceeding.

Signature

Printed Name

(Witness) Signature

Printed Name





Electronic Communications

Privacy Policy

It is the policy of the Board of County Commissioners that all electronic communications are considered part of the county's public records. The Board of County Commissioners authorizes the County Manager at his or her discretion to monitor all cellular phones, county-issued or private, computers, laptops and tablets when used for county business, which may include, but is not limited to: identifying and analyzing telephone numbers, time and length of both incoming and outgoing calls, internet sites visited, email content, text messaging, photo and video capturing.

Except for meetings subject to the Florida "Sunshine Law," (Chapter 286, Florida Statutes), all meetings of county officials and employees are conducted with an expectation of privacy and no personal video or audio recording may be made of the meeting without the prior disclosure to and consent of all of the participants.

Cell/Smart Phone Allowances

The Board of County Commissioners authorizes the County Manager to develop procedures to implement stipends for personal cell/smart phone devices, which are used to conduct county business.

Public Records

It is the policy of the Board of County Commissioners to comply with open government and public records laws pursuant to Florida Statutes Chapter 119 and Florida Statutes Chapter 286.

**POLK COUNTY FIRE RESCUE****100 Series****No. 108****Pages 1-4****Revised: 1/4/16****Social Media/Networking Policy****Associated Directives:****PCFR SOP 102, 107, 109, 113, 119, 207****BoCC Policies: Handbook 10.08**

POLICY: It is the policy of Polk County Fire Rescue Division ("PCFR" or "Division") of Polk County, a political subdivision of the State of Florida ("County"), to respect the Constitutional and statutory rights of all members and the public. While all PCFR members have the right to use personal social networking pages or sites, members are public servants who are held to a higher standard than that of the general public with regard to standards of conduct and ethics. Members have an affirmative obligation while using social media to ensure they do not become viewed as spokespersons for PCFR except when duly authorized. This PCFR Social Media Policy shall be construed in conjunction with the Social Media Policy governing all Polk County employees, provided in the County's Employee Handbook. In the event that any specific conflict exists between the County's Social Media Policy and this PCFR Social Media Policy, the County's Social Media Policy shall govern.

It is the policy of PCFR that all personnel will maintain a level of professionalism in both on-duty and off-duty conduct that is consistent with the honorable mission of the Division and in a way that will not cause actual harm or disruption to the mission and functions of the Division or place the County in a position of public disrepute.

PURPOSE: The purpose of this policy is to provide guidance and direction to members of PCFR with respect to the use of social media, which should be broadly understood to include the Internet, the World Wide Web, blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites and other sites and services that permit users to share information with others in a contemporaneous manner. This guidance is intended to help clarify the boundaries between appropriate and inappropriate use of social media by PCFR personnel in a way that helps to protect members' careers while preserving the public's confidence in the Division. Nothing contained in this policy is intended in any way to unlawfully restrict a member's right to:

- A. Discuss as a private citizen, matters of public concern to the extent protected by the First Amendment, nor
- B. Engage in concerted activity with co-workers to the extent protected by collective bargaining laws.

This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees.

DISCUSSION: The proper functioning of any fire and emergency service organization depends upon the public's confidence and trust in the individual firefighters, officers, and Division as a whole to carry out our mission. Any matter which brings discredit to individual firefighters, officers, or the Division has the corresponding effect of reducing public confidence and trust in our organization, thus impeding our ability to work with and serve the public.

Professionalism is a significant factor in high level performance which, in turn, builds the public's confidence and trust. Conduct that erodes the public trust and confidence, or that may lead members of the public to conclude that the individuals who make up the Division are biased, be it based upon race,



ethnicity, national origin, skin color, gender, age, disability, religion, or sexual orientation/identification, impedes the mission and functions of PCFR.

DEFINITIONS:

Harassment - is the systematic and/or continued unwelcome actions of one party or group intended to demean, threaten, intimidate, or alarm another party or group.

Hate speech - is speech that attacks a person or group on the basis of attributes including race, ethnic origin, national origin, skin color, gender (including status as pregnant or nursing), religion, disability, age, or sexual orientation, indicating a level of intolerance or hostility that is incompatible with a commitment to serve all members of the community.

Social media - web based technology tools that enable people to communicate electronically via the Internet and the World Wide Web to share information and resources. Social media can include the sharing and exchange of electronic data, text, audio, video, images, podcasts, web casts, and other multimedia information in virtual communities and networks. Examples include but are not limited to: Facebook, Twitter, MySpace, YouTube, Pinterest, LinkedIn, myLife, Flickr, Yelp, Second Life, Foursquare, Meetup.com and Google+.

Social networking - the act of connecting to others through the use of social media

Speech: Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

Spokesperson for the Division: A member, employee, contractor, consultant, third party vendor, temporary employee, intern, volunteer, auxiliary or any other individual with/or under the direction of the BoCC or PCFR who makes a statement:

- On behalf of the Division;
- In his/her capacity as an employee or member of the Division; or
- In such a way that it may reasonably be attributed to the Division

108.1 ENGAGEMENT OF SOCIAL NETWORKING ACTIVITIES:

A. No member shall post, disseminate, or in any other way broadcast as a **private citizen** on a **matter of public concern** in such a way as to cause actual harm or disruption to the mission and functions of the Division. Examples of conduct that may cause actual harm or disruption to the mission and functions of the Division include but, are not limited to posts that:

1. impair harmony among co-workers, neighboring Divisions, and operational partners,
2. has a detrimental impact on close working relationships among coworkers,
3. has a detrimental impact on the relations between the Division and the community PCFR protects, and
4. are contrary to County policy or PCFR's directives and/or procedures; and harmful to the proper functioning of the Division.

B. Members may post, disseminate or broadcast on a **matter of public concern** as a **spokesperson** for the Division only with permission through chain of command. Members shall at all times exercise diligence to avoid holding themselves out as spokespersons for the Division except when duly authorized. For this reason, when using social media, members shall not in any way represent themselves as a member of, employee of, or spokesperson for, this Division without prior approval from the Fire Chief. This shall include, but shall not be limited to:



1. Text which identifies this Division by name, abbreviation, or reference,
2. Images that depict the logos, patches, badge or other identifying symbol(s) of this Division,
3. Accounts of incidents or events which occur within this Division for which the member may be viewed by the public as an official or unofficial Division spokesperson,
4. Any other material, text, audio, video, photograph, or image which would be identifiable to this Division, and
5. Use of title, rank or assignment as well as any reference to this Division in any correspondence to include emails, postings, blogs, twitter, social network sites, user names, or screen names, unless the communication is of an official nature and is serving the mission of this Division. This prohibition also includes signature lines in personal email accounts. A member may seek prior Division approval for such use.

C. PCFR Members are **prohibited** from posting, disseminating, or broadcasting Division matters that are **not of a public concern**, unless doing so is for the purpose of **engaging in concerted activities** relative to workplace issues. Specifically, this provision does not prohibit PCFR members from discussing terms and conditions of employment among themselves or with non-members for the purpose of engaging in concerted activities. However, in doing so PCFR members must ensure that they are not perceived as being a spokesperson for the Division nor that the posting could be attributable to the Division.

D. Members shall not post, disseminate or broadcast information that is known to be false, deceptive, libelous, slanderous, misleading or causes harm to others, including speech that constitutes hate speech, or harassment; nor shall members discuss protected or confidential matters of the Division, including:

1. Matters that are under investigation;
2. Patient and employee information protected by HIPAA and/or medical confidentiality laws; or
3. Personnel matters that are protected from disclosure by law.

This provision does not prohibit members from discussing terms and conditions of employment among themselves or with non-members for the purpose of engaging in concerted activities.

E. Members shall not post, disseminate, or broadcast Division owned images or audio recordings unless authorized to do so, or unless such images or audio are available to the public pursuant to the public records law. If such images or audio have been released as public records members shall ensure they release such information as private citizens, and not in such a way that they will be perceived as being spokespersons for the Division.

F. Members shall maintain an appropriate level of professionalism and conduct so as not to post, disseminate, or broadcast in a manner which is detrimental to the mission and function of this Division. This provision is not intended to restrict the content of a posting that is protected by the First Amendment or collective bargaining laws, but rather is intended to apply to the use of indecent, offensive or vulgar terms; the posting of materials of a pornographic nature; harassment that adds no additional facts or information to a public discourse; or engaging in illegal activities.

G. Member shall not use social networking to post content of a sexually graphic nature, violate copyright laws, or engage in illegal activities.



- H.** Harassment, bullying, discrimination, or retaliation against a co-worker that would not be permissible in the workplace is not permissible between co-workers online, even if it is done off-duty, from home and on personal computers or devices.
- I.** Employees are permitted limited personal use of BoCC technology provided their supervisor grants prior approval. Personal use of county technology must be approved for each device. (Refer to Employee Handbook 10.08 - Technology Resources Acceptable Use Policy)
- J.** Because social media is an emerging form of communication, the Division permits employees to engage in limited social media activity in the workplace and/or while on duty, similar to receiving a personal text message or a telephone call of limited duration. Employees choosing to do so, however, are expected and required to use proper judgment and discretion, recognizing that even very brief periods of social media activity can collectively amount to significant periods of time. Supervisors are authorized to restrict or prohibit workplace/ on-duty social media activity, as appropriate.
- K.** PCFR Members are prohibited from engaging in social networking activities that involves the recording or transmission of imagery or audio while on duty; while off-duty and acting in an official capacity; while on fire Division property; while in fire Division facilities; while on or in fire Division apparatus or vehicles; or while in uniform or while wearing such portion of the uniform so as to make the member identifiable as a member of this Division. As pertains to this provision, imagery includes still photos or video taken and posted, disseminated or broadcasted via the internet immediately or within a short period of time thereafter, as well as live streaming imagery.
- L.** This policy shall not apply to personal communications between a member and members of his/her immediate family involving Facetime, Skype, or similar platforms.



**POLK COUNTY FIRE RESCUE****100 Series****No. 109****Pages 1-4****Revised: 2/6/16****Photography and Digital Imagery Policy****Associated Directives:****PCFR SOP 102, 113, 119, 207, 631, 634, 635****BoCC Polices: Handbook 10.08**

POLICY: It is the policy for the Polk County Fire Rescue (PCFR) to establish guidelines and procedures for the collection, use, distribution and storage of images captured using conventional film, digital photography and video recording by members while engaged in the performance of their official duties. It is the policy for PCFR members to respect of privacy interests of agency personnel, patients, fire victims, and the public, and to comply with the Florida public records statute 119.

PURPOSE: The purpose of this policy is to manage photographs and digital images taken by Polk County Fire Rescue (PCFR) personnel in accordance with Florida state law, in such a way that the privacy rights of agency personnel, patients, fire victims, and the public are preserved; that evidentiary concerns related to such images are protected; and the professional image of the agency is maintained.

This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this agency for non-judicial administrative action in accordance with the laws governing employee discipline.

DEFINITIONS:

Images: Photographs, digital photographs, digital images, video recordings, or electronic files containing a graphic image or series of images, as well as any digital reproductions or copies of such photographs, digital photographs, digital images, video recordings, or files. This definition shall extend to derivations of the term images, including image, imagery and imaging.

Digital imaging device: Any device capable of producing a digital image, including but not limited to a digital camera or digital camcorder.

109.1 ON-DUTY PHOTOGRAPHY

- A.** Members shall take all images with agency owned/issued equipment while on-duty or acting in an official capacity. Members are prohibited from using a non-agency owned camera, video recorder, audio recorder, or the camera/video/audio function of a non-agency owned cellular phone, PDA, or any other digital imaging device while on-duty. The fire chief or his/her designee may grant an exception to this rule on an individual basis. Any permission granted by the fire chief or his/her designee shall be in writing and shall indicate any conditions or limitations upon the employee.
- B.** A basic condition of any employee using a non-agency owned camera, video recorder, audio recorder, or the camera/video/audio function of a non-agency owned cellular phone, PDA, or any other digital imaging device while on-duty is that the Fire Chief or his/her designee may inspect the device at any time. In addition, the member must comply with all other aspects of this policy as if the image was taken with an agency-owned device.



- C. Members who have been trained on compliance with this policy and who have been approved by the Fire Chief or the Communications Division Director shall be permitted to take images pursuant to this policy.
- D. All images should be taken in color without any filter to alter the original format. Members should review the images taken prior to leaving an incident scene to ensure that no additional images are needed or required.
- E. All images shall be preserved and shall not be deleted without written permission of the Communications Division Director, except as permitted by the record retention policy.
- F. All images taken by members are the sole property of the Polk County Board of County Commissioners (BoCC), PCFR Division, and are under the control of the Communications Division Director, Fire Chief or his/her designee. This specifically includes any images taken inadvertently with a non-agency owned camera, cell phone camera, or any other digital imaging device by a member while on-duty or acting in an official capacity.
- G. Any member who inadvertently takes such an image shall report the fact immediately through the chain of command. Members shall not be disciplined for inadvertent violations that are duly and immediately reported.
- H. Members are expressly prohibited from taking any images of another person in any location where a person has a reasonable expectation of privacy, including, but not limited to, a bathroom, bedroom, locker room, changing area, or any other location where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or in a place where one could reasonably expect to be safe from hostile intrusion or surveillance.

109.2 INCIDENT SCENES

- A. Members are prohibited from using a non-agency owned camera, video recorder, audio recorder, or the camera/video/audio function of a non-agency owned cellular phone, PDA or any other digital imaging device while responding to, operating at, or returning from, any incident. Any member who inadvertently takes such an image at an incident scene shall report the fact immediately through the chain of command to the incident commander at the earliest possible opportunity. Members shall not be disciplined for inadvertent violations that are duly and immediately reported.
- B. On scene photography or video taken by members while on-duty or acting in an official capacity shall be for incident documentation, evidentiary, training, investigation, and/or public relations purposes only. Such images taken by members while on-duty or acting in an official capacity shall be taken by or with the approval of the incident commander in charge of the scene, using approved agency equipment, or as approved by the Fire Chief.
- C. The taking of imagery shall not interfere with nor delay operational activities, except to the extent that imagery of a fire's cause and origin may require overhaul to be momentarily delayed.
- D. All photographs and video containing individually identifiable patient information shall be presumed to be covered by HIPAA and state privacy laws and shall be protected in the same manner as patient care reports and medical documentation.



109.3 HANDING AND PRESERVATION OF IMAGES

- A. The Polk County Communications Division is the archiver for all photography, and digital imagery and audio media for the BoCC and maintains a library for public education, public relations, training, investigation and public records purposes.
- B. PCFR owned images shall not be used, printed, copied, scanned, e-mailed, texted, forwarded, posted, uploaded, shared, reproduced or distributed in any manner, except as provided herein. This prohibition specifically includes the posting of any images on personal Web sites such as, but not limited to: Face Book, MySpace, Pinterest, Flickr, Google+, Twitter, or YouTube; posting to public safety Websites; or e-mailing to friends, relatives, colleagues, or other third parties.
- C. All PCFR digital images as described in this policy shall be downloaded from the digital imaging device as soon as possible after they are taken, and will be cataloged and stored in a secure database with controlled access. After being downloaded and verifying that the downloading is successful, the images on the digital imaging device's memory card shall be erased.
- D. All media related to an emergency incident scene will be electronically attached to the related incident report.
- E. All media created in accordance with this policy shall be submitted to the Polk County Communications Division via the following procedures.
 - 1. The "*Incident Information Form*", located on the Hub under Forms > Fire Rescue, shall be completed and saved to the folder with the incident/event photos in conjunction with the submission of all media files.
 - 2. Media files shall be uploaded via the Public Safety First Response Photo Uploader located on the desktop of the station computer.
 - a. Fill in the *Event Description and Location* box with a description and location of the incident/event. *Example No. 1: MVC 540A and Carter Road. Example No. 2: School Group Visit Station 480.*
 - b. Using the "*Select Folder*" button, navigate to the folder containing the event photos and Incident Information Sheet and click Select Folder.
 - c. Click "*Upload Documents*"
- F. Members shall delete all media files from its original source only after they are attached to the incident report, if applicable, and uploaded via the Public Safety First Response Photo Uploader using the above procedures.
- G. Media taken in accordance with this policy shall be uploaded before the end of the member's shift.
- H. All imagery taken by members while on-duty or acting in an official capacity must be submitted and then deleted in accordance with established procedures. Any deviation from this policy may be a violation of F.S.S. 119.
- I. Digital images in the secured databases shall not be accessed by any party, or altered via software product or utility such as Photoshop, unless express permission is granted in writing by the Polk County BoCC's Communications Division Director or his/her designee.



- J.** If permission to alter a photo is granted, the original photo shall not be altered in any way, and any copies that are altered shall be appropriately initialed and documented as to being an altered copy. The following details of the alteration will be noted and preserved:
1. Notation of what was altered (cropped, lightened, darkened, etc)
 2. The name and rank of the member performing the alteration
 3. The time and date of the alteration
- K.** The use of PCFR images shall be subject to approval of the Polk County BoCC's Communication Division Director or his/her designee. Prior to the release of any image, the image shall be evaluated by the Communications Division Director or his/her designee to ensure that the release will not result in a breach of patient confidentiality or breach of privacy, and that the release will, in all other respects, be lawful.
- L.** PCFR member desiring to use an agency owned image shall submit a written request to the Communications Division Director and the Fire Chief identifying the image or images requested.
- M.** Members shall not post disseminated distribute or release any agency owned image in such a way that the releasing member may be viewed as by the media or members of the public as being a spokesperson for the agency, except when duly authorized to do so.
- N.** The use of unauthorized helmet cams and dash cams is strictly prohibited, and shall be considered a serious disciplinary breach for the member involved and any supervisor who permits such use.
- O.** Use of agency cameras to take images for personal purposes is strictly prohibited.
- P.** Violation of this policy or failure to permit inspection of any device covered in this policy may result in disciplinary action up to and including termination.
- Q.** Members who are off-duty but acting in an official capacity shall be required to comply with all of the requirements of this policy. The following shall be considered acting in an official capacity while off-duty:
1. Members who are in uniform or are identifiable as members of this agency by virtue of the clothing they are wearing.
 2. Members who utilize their credentials or identify themselves as PCFR personnel to access areas of the incident scene that are not open to the public

109.4 PERSONAL IMAGES - EXCEPTIONS

- A.** This policy shall not apply to images taken by on-duty personnel with a personally owned device for purely personal and non-business purposes, including images of friends and family members during a fire station visit, and co-workers posing for a group photo.
- B.** This exception shall not apply to imagery taken at emergency scenes, training events, or during other official activities of the agency, nor shall any such photo be taken if it may have any training, operational, documentation, or evidentiary value.
- C.** Imagery taken pursuant to this exception shall not contain profanity, nudity or partial nudity, horseplay, hazing, harassment, be offensive, or depict vulgar or sexually suggestive images.
- D.** Imagery taken pursuant to this exception shall not be used or sold for profit.



**POLK COUNTY FIRE RESCUE****100 Series****No. 107****Pages 1-3****Revised: 1/4/16****PUBLIC INFORMATION POLICY****Associated Directives:****Social Media - Networking Policy, Photography and Digital Imagery****BoCC Policies: Handbook 10.08**

POLICY: The policy of Polk County Fire Rescue is to cooperate with all news media personnel. The Polk County Fire Rescue Division is committed to informing the community and the news media of events within the public domain that are handled by or involve the agency. To operate effectively, PCFR must obtain the support of the public they serve. By providing the news media and the community with information on agency administration and operations, the agency hope to foster a relationship of mutual trust, cooperation and respect.

It is the policy of PCFR to treat members of the media with professionalism and ethical behavior. It is expected that the media will respond in a like manner and follow ethical guidelines established by their industry. Members of this agency who believe they were treated unethically should contact the Polk County BoCC's Communications Division.

PURPOSE: The purpose of this policy is to establish guidelines for media relations and the release of information to the news media and/or members of the general public.

107.1 PUBLIC INFORMATION FUNCTION:

A. This directive establishes the agency's public information function, to include:

1. Assisting news personnel in covering routine news stories, and incident scenes
2. Being available for on-call responses to news media
3. Preparing and distributing agency media releases
4. Arranging for, and assisting at, new conferences
5. Coordinating and authorizing the release of information about victims, witnesses
6. Assisting in crisis situations within the agency; and
7. Coordinating and authorizing the release of certain information concerning confidential agency investigations and operations.

107.2 PUBLIC INFORMATION OFFICER (PIO):

- A.** The Incident Commander at the incident scene will be responsible for the management of Public Information during emergency incidents. The Incident Commander shall request a PIO from dispatch or call the PIO on-call phone number directly as soon as it is determined that the PIO is required on the scene.
- B.** The PIO will be responsible for interfacing with all media representatives and other outside agencies requiring information and data on the incident.



- C. The PIO will gather information from Command and will establish the location of the Public Information Section and/or media staging area if necessary, so as to have access to the Command Post, but not interfere with operations.
- D. Each officer is responsible for the safety of media personnel in his or her area. If media personnel create a safety problem or hinder operations, they should be requested to move in a positive manner, avoiding confrontation where possible.
- E. The PIO shall be notified on all significant incidents occurring within the response area of Polk County Fire Rescue which involve large dollar loss, injury, or death will have a high probability of interest to the media and the PIO shall be notified.
- F. An incident manager or commander should request a PIO based on the following criteria to assist in media management:
 - 1. Working fires which may fall into the following categories:
 - (a) Structure fires that result in damages large enough to displace the residents or have caused injury or death (firefighter/civilian).
 - (b) Fires which are significant enough to elicit a second alarm, request a Safety Officer or require the notification of the Duty Officer.
 - 2. Other Emergencies:
 - (a) Water rescue or recovery operations.
 - (b) Hazardous materials incident resulting in road closures and/or involve evacuation of employees or nearby residents, .
 - (c) Extrication upgrades which would involve fire equipment out of service for an extended period of time.
 - (d) Technical Rescue Team Operations.
 - (e) Incidents significant enough to request a Safety Officer or require the notification of the Duty Officer.

107.3 PIO DUTIES AND NOTIFICATION

- A. In an effort to improve media relations and be assured that accurate, timely information is disseminated, the following guidelines have been established:
 - 1. The appointed PIO will use his/her discretion in responding to calls.
 - 2. It will be the Battalion Chief's or Duty Officer's responsibility to act as PIO in the absence the county PIO. (Incident worksheets will still be required for follow up.)
 - 3. PIO will immediately make cellular phone number available to the media via dispatch upon arrival on the scene.
 - 4. On-scene, a media staging area shall be clearly designated. (i.e. scene tape, land marks, other vehicles)
 - 5. Incident Commander shall make all information pertaining to the incident available to the PIO (status update; who, what where, when, and why)



6. Information considered newsworthy will depend on each individual incident/event. Typical information need is as follows:

- (a) List of occupants (description only, no names)
- (b) Injuries (Civilian or Fire personnel)
- (c) Medical transportation information, if applicable (location, name of facility)
- (d) Size of structure; estimated dollar loss; built in fire protection usage
- (e) Number of units on scene; time of alarm; time under control, etc.

B. It is the responsibility of the PIO on-scene to request additional assistance if the scale of the incident requires multiple Public Information Officers.

107.4 PHOTO AND DIGITAL IMAGERY TAKEN WHILE ON-DUTY

A. Any photograph or video taken in the performance of official duty, whether on- or off-duty, is the property of the Board of County Commissioner, is not the personal property of the member taking the photograph or video and is public record.

B. Polk County Communications Division is the gatekeeper for all photos and video for the county and maintains a library for public education, public relations, training, investigation and public records purposes

C. Members will comply with all agency and County established directives and procedures reference to the use of photography and digital imagery.

107.5 DISSEMINATION OF INFORMATION

A. Members shall not address media personnel without authorization of the Fire Chief, PIO or designee. Release of information relating to agency business to media personnel shall be done in compliance with State Law, the agency's directives and established County procedures.



(INTERVIEW OF MICHAEL RUBY, #2019-AC -0001, 1/28/19)

(The following may contain unintelligible or misunderstood words due to the recording quality.)

INVGR. CONE: Good morning. Today's date is January 28th, 2019. The time is approximately 10:05 a.m. The location is the Polk County B.o.C.C. administration building located at 330 West Church Street Bartow, Florida. Persons present are the speaker, Daniel Cone, investigator with the Office of Professional Standards for Polk County Fire Rescue, and Michael Ruby, who is providing an official statement about this incident. The administrative case file number is 2019-AC-0001. Michael, now you have the right to have a representative present with you during questioning, but it's my understanding you're willing to go forward without a representative. Is that correct?

MICHAEL RUBY: Correct.

INVGR. CONE: Okay. Thank you. Uh, Michael, on January 3rd, 2019 you were served a written notice of investigation that contained the nature of the complaint and the allegations against you. Is that correct?

MICHAEL RUBY: Correct.

INVGR. CONE: Okay. Now, this document had listed as the complainant an external citizen, but I've provided you with some documentation that outlined where the complaint came from, how it originated, and I've given you an opportunity to go over that -- that -- that information. Is that correct?

MICHAEL RUBY: That's correct.

INVGR. CONE: Okay. Uh, Michael, you're being questioned today as part of formal investigation of Polk County. Falsely denying, lying, or otherwise engaging in deception in order to cover up or attempt to cover up misconduct or actions described within the Polk County employee handbook is a violation of county policy. Any refusal to cooperate in this administrative investigation or intentionally making false statements intended to misrepresent or impede the truth of actual facts or circumstances is a violation of county policy that, if proven, may result in disciplinary action, to include termination. Do you understand that?

MICHAEL RUBY: Yes.



INVGR. CONE: Okay. I know you've already signed your Garrity warning, but I'm going to read that to you just to make sure you understand this. "You are hereby advised that I intend to question you as part of an official administrative investigation being conducted by the Polk County Fire Rescue Division. The purpose of this Garrity warning is to protect you from compelled self-incrimination during the administrative interview. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of the state of Florida and the constitution of the United States, including the right not to be compelled to incriminate yourself."

"Pursuant to the Polk County Fire Rescue Division standard operating procedure and/or the Polk County board of county commissioner's employee handbook you are required to answer my questions fully and truthfully. If you refuse to testify or answer all questions relating to the performance of your official duties or fitness for office you may be subject to separate disciplinary action, to include the termination of your employment. Your statements or any information or evidence relating to this administrative investigation as gained by reason of such statements cannot be used against you in any criminal legal proceeding except for perjury or obstruction of justice charges."

"However, your statements may be used against you in other administrative and/or disciplinary actions taken against you. As such, you are ordered to answer all questions fully and truthfully." Do you understand that?

MICHAEL RUBY: Yes.

INVGR. CONE: Okay. Michael, will you please raise your right hand? Do you swear or affirm the testimony you're about to give is true and correct to the best of your knowledge?

MICHAEL RUBY: Yes.

INVGR. CONE: Okay. Thank you. Uh, Michael, for the record can you state your full name, uh, spell your last name for the recording please, and provide your I.D. number.

MICHAEL RUBY: Michael Douglas Ruby. Last name is R-U-B-Y.



INVGR. CONE: And --

MICHAEL RUBY: Uh, I.D. number is 26890.

INVGR. CONE: 2689 -- okay. And how long have you been employed with Polk County Fire Rescue?

MICHAEL RUBY: At this current time, it's been a year and maybe two weeks or so.

INVGR. CONE: Okay. So, just over a year?

MICHAEL RUBY: Yes, sir.

INVGR. CONE: And you're a firefighter/paramedic. Is that correct?

MICHAEL RUBY: Correct.

INVGR. CONE: Okay. The incident we're going to discuss today was reported on January 2nd involving images posted on social media. And I've let you review the -- the information I have. Tell me about the photos that were in that -- that packet of information.

MICHAEL RUBY: The photos, as you see, uh, one is a picture of my truck. I was in the back of the bay. It was raining out there. It was dark as well. I was doing a very simple thing in my car where in unbelted something and also, I wanted to clean out my truck in the back of the bay and, like I mentioned, it was dark and rainy. That's why I was back in the back of the bay. As you see in the picture I -- I mean I tried to be as discrete as possible as far as, like, at work or, like, nothing Polk is in the picture, Polk County Fire Rescue. There's just the back of the engine says fire. I didn't think it was that big of a deal or concerning, but obviously it's an issue and against the, uh, the policy, but I tried to be as discrete as far as Polk County Fire Rescue, anything that was harmful in nature.

The second one was blood that was on the floor so, I guess, you know, a bit graphic and shouldn't have been posted. But, again, nothing with a HIPAA violation or anything with patient information or nothing with Polk as well. The other one was just a -- a CAD note, like you saw, and I blurred out everything where it doesn't show anything for a violation, but still, you know, it was offending to somebody.



INVGR. CONE: Did you -- did you take those photos?

MICHAEL RUBY: I did.

INVGR. CONE: Yes? Okay. Um, and I know they were posted somewhere. Was it on Snapchat or Instagram?

MICHAEL RUBY: It was Snapchat.

INVGR. CONE: Snapchat? Okay.

MICHAEL RUBY: And the other one was Instagram. The picture of my truck was Instagram.

INVGR. CONE: The picture of the truck was on Instagram? Okay.

MICHAEL RUBY: Correct.

INVGR. CONE: Um, is this something you've done before, posted images?

MICHAEL RUBY: I have, but it's going to stop now at this point.

INVGR. CONE: Do you know how many -- about how many times you've done it in the past?

MICHAEL RUBY: Maybe five, six --

INVGR. CONE: Okay.

MICHAEL RUBY: -- seven, or so. I don't -- I haven't counted, but more than once.

INVGR. CONE: Now, I need to ask if the images are still out there on social media, but I know -- I -- I -- obviously --

MICHAEL RUBY: Snapchat, after 24 hours they go away.

INVGR. CONE: They go away.

MICHAEL RUBY: I wouldn't -- not that I should have posted them anyways, but I wouldn't post stuff like that where it's there for --

INVGR. CONE: Okay.



MICHAEL RUBY: -- you know, for -- permanently. That's how Instagram works. It's -- Instagram you post a picture it's there until you --

INVGR. CONE: Yeah.

MICHAEL RUBY: -- delete it, which is why it was my truck, more like my hobbies and what I do.

INVGR. CONE: Right.

MICHAEL RUBY: Snapchat, the mindset behind is after a day it's gone and nobody sees it ever again unless they screenshot it, which was the case, so --

INVGR. CONE: And that -- and that actually, uh -- my understanding is that if you post something and someone screenshots it it gives you an alert that it's been --

MICHAEL RUBY: Right.

INVGR. CONE: -- screenshot. Okay. So, you were aware that had happened?

MICHAEL RUBY: Right.

INVGR. CONE: Okay. Um, so there -- there's no need to remove those images after -- 'cause after 24 hours they go away on Snapchat?

MICHAEL RUBY: Right, right.

INVGR. CONE: Okay. Um, when you got the alert that they had been screenshotted did you then at that point do anything with them? Did you take them down or did you leave them up there until -- just for them to naturally, for lack of a better word, naturally expire or terminate, however that --

MICHAEL RUBY: Uh, I don't recall honestly.

INVGR. CONE: You don't recall? Okay.

MICHAEL RUBY: I don't want to say I took them down; I don't want to say I erased them if I didn't but, uh, I don't remember to be honest.

INVGR. CONE: Okay.



MICHAEL RUBY: But either way, after a day, from the time you post, so 8:00 in the morning, it'll be gone at 8:00 the morning after --

INVGR. CONE: The next morning. Okay.

MICHAEL RUBY: -- so it's not like it's there for everyone to see.

INVGR. CONE: Right. And how does that work? Is it like a -- a -- a chat group or is it -- is it like you post something on Facebook and everybody who is your friend can see what you posted --

MICHAEL RUBY: Right.

INVGR. CONE: -- or is it just a select group of people? I mean, does Snapchat work the same way or the same --

MICHAEL RUBY: It's the same.

INVGR. CONE: Okay.

MICHAEL RUBY: It's friends who see it.

INVGR. CONE: Friends?

MICHAEL RUBY: And as the -- as the complaint -- the -- the report said that we've been friends for, you know, many years --

INVGR. CONE: Right.

MICHAEL RUBY: -- I didn't think anything harmful of it or that it would offend anyone but obviously it did, and he screenshotted it, so I was going to just ask him, like, you know, why --

INVGR. CONE: Right.

MICHAEL RUBY: -- he screenshot it. That was it.

INVGR. CONE: Okay. And you've been friends and, um, it's -- with Shane Boswell is the -- is the person I spoke to.

MICHAEL RUBY: Uh-huh.



INVGR. CONE: And then --

MICHAEL RUBY: As in -- sorry to interrupt. As in Shane actually, like, he called here to complain about it or he talked to his, I guess, sister or something?

INVGR. CONE: He talked to his sister and his sister is the one who initiated the complaint.

MICHAEL RUBY: Okay.

INVGR. CONE: When I spoke to her, she told me that, you know, the person that -- that brought it to her attention wasn't sure if it was something that needed to be addressed, but they were uncomfortable by it. And I asked her -- she wouldn't tell me who it was. I asked her, "Well, if he wouldn't mind calling me would you have him call me?" And then he called me and I spoke to him.

MICHAEL RUBY: Okay.

INVGR. CONE: And -- and he-- he said -- you know, he goes, "Look, I'm not trying to get anybody in trouble but it just bothered me when I saw the blood." Um, but, you know, and then we talked about different things obviously.

MICHAEL RUBY: Can I ask what else -- different things, like, pertaining to, like, me and this case or just, like, in general different -- in -- in general different things.

INVGR. CONE: Well, he was -- it -- it was -- it was -- it was in -- in, uh, in -- in -- in regards to this case. He was very, you know --

MICHAEL RUBY: Uh-huh.

INVGR. CONE: -- you know, he was expressing this -- you know, he thought it was -- was inappropriate to place this in there.

MICHAEL RUBY: Okay.

INVGR. CONE: And then his sister, who I guess is in -- in -- is a air medic, you know, she -- she brought some other concerns in with the HIPAA that you -- you've talked about.

MICHAEL RUBY: Uh-huh.



INVGR. CONE: Um, prior to all this coming to light were you familiar with the department's, uh, policy on social media and - and digital imagery and --

MICHAEL RUBY: Uh, I know that it was big as far as, like, not to post -- not to post things to, like, you know, @Polk County Fire Rescue, like, no Polk County uniform things and, like, you know, what you're doing, where you're at, things like that. So, I had an idea, uh, which is still not right, but that's also partly why I blurred out everything. I know HIPAA. That's why nothing as far as patient information or anything like that is - is on, you know, the post, as you see.

INVGR. CONE: Uh-huh.

MICHAEL RUBY: So, I -- I was aware of it somewhat but --

INVGR. CONE: All right. Are you -- and these policies kind of go hand in hand. We've got a social media policy, but we also have a policy that governs digital imagery. And then we have a public information policy. Are you familiar with those two policies?

MICHAEL RUBY: Not as well as I --

INVGR. CONE: Okay.

MICHAEL RUBY: -- should be.

INVGR. CONE: Okay. Fair enough. Have you posted anything like that since --

MICHAEL RUBY: No.

INVGR. CONE: -- this all came to light?

MICHAEL RUBY: No.

INVGR. CONE: Okay. Well, Michael, I think that's really all I have to ask you this morning. Is there anything I have not asked, anything you think would be important for me to know regarding this?

MICHAEL RUBY: Uh, the other -- out of the three pictures the two of them with the -- as far as the CAD information and the --

INVGR. CONE: Uh-huh.



MICHAEL RUBY: -- blood, I -- I get that, you know, uh, as far as why somebody would be aggravated or upset by it. But what was the exact issue or complaint with the truck?

INVGR. CONE: I think that was just, um, I think that was just something they posted. They -- they said -- and I -- I obviously don't know. I didn't ask 'cause I wasn't really concerned about that, um, but that came with whatever they sent to whoever they sent that to.

MICHAEL RUBY: And it was all from the same people?

INVGR. CONE: Yes.

MICHAEL RUBY: And then it went directly -- you said they emailed --

INVGR. CONE: They emailed chief.

MICHAEL RUBY: -- the fire chief himself?

INVGR. CONE: Uh-huh.

MICHAEL RUBY: Okay. Uh --

INVGR. CONE: So --

MICHAEL RUBY: No, I mean I -- it's an -- it's an eye-opener.

INVGR. CONE: Uh-huh.

MICHAEL RUBY: So, I'll take the advice and information and move on with it.

INVGR. CONE: Michael, is everything that you've said to me today true and correct?

MICHAEL RUBY: Yes.

INVGR. CONE: Okay. This is an open investigation. Now, I don't anticipate it being open a whole lot longer but until you are given information, you're informed that it's been closed you are not to discuss your testimony here with me today with anybody in Polk Fire or anybody, meaning any of our business partners, hospitals, vendors, that sort of thing. Do you understand that?



MICHAEL RUBY: I do.

INVGR. CONE: Okay. That will conclude this interview the time is now approximately 10:16. It is still the 28th of January 2019.

(CONCLUSION OF INTERVIEW)

Transcribed by: hmc/hmc



Monitor

Lookup

Admin

Service: F

Mike Ruby
16h ago

Comment: PT IS PALE// VEH VS
MOTORCYCLE// PT'S LEG IS BEING
HELD ON BY BELT// GRASS IS ON FIRE
FROM MOTORCYCLE BEING BURNED
Service: F





Mike Ruby
3h ago

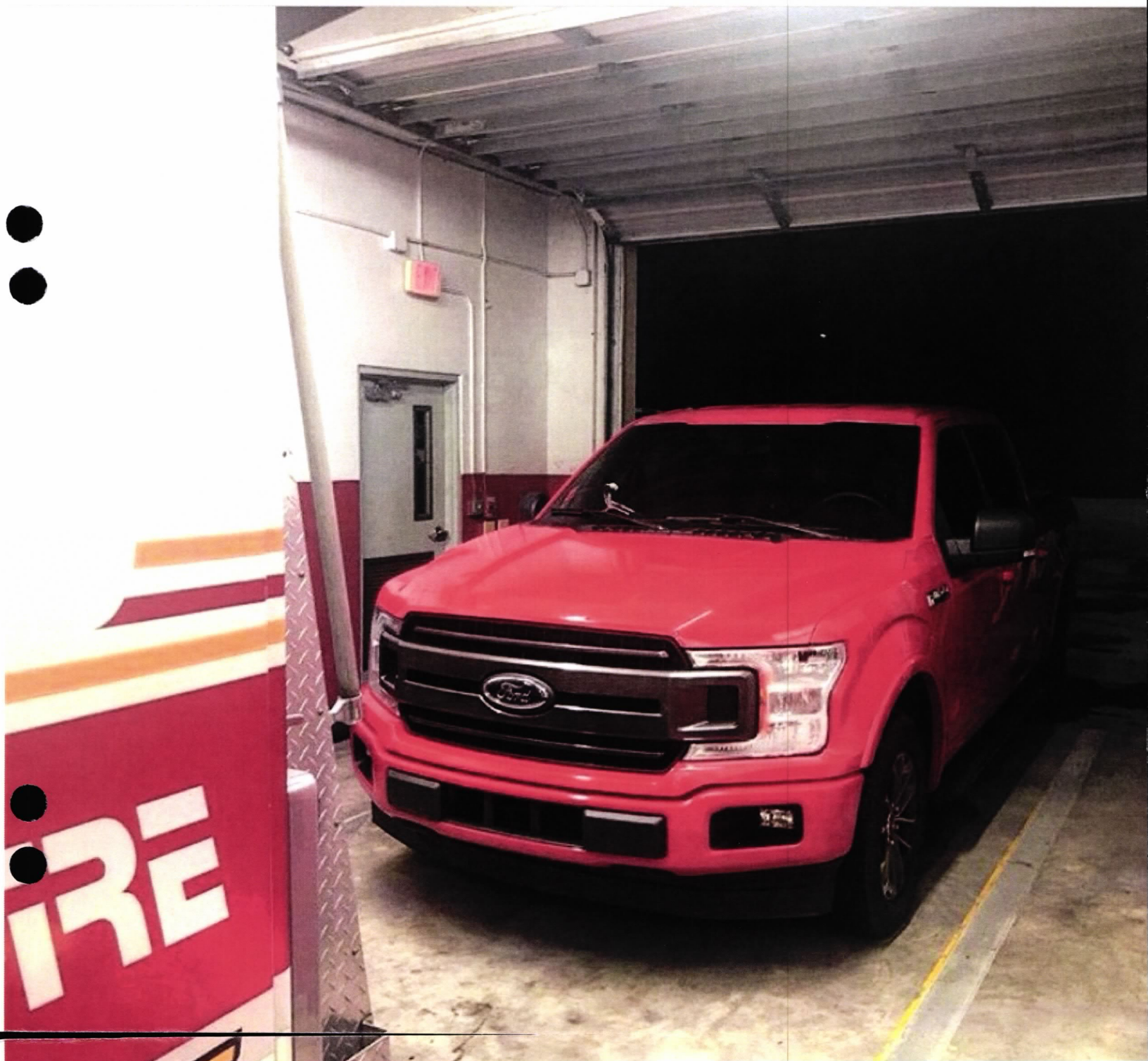
12:09



Photo



mikeruby954



Liked by thevieux and 1,168 others

mikeruby954 Pulled her into the station for a little home made VTA. First mod, leveling kit, cold air take, or blow-off valve to please my ears. Which one and why? I'm not voiding warranty so tune is out. #f150 #ecoboost #2018f150 #ford

[View all 65 comments](#)

DECEMBER 18, 2018



EMPLOYEE ACTION FORM

POLK COUNTY BOCC

EMPLOYEE NAME: Ruby, Michael

Employee ID#: 26890

DATE: 03/11/2019

DIVISION: Fire Rescue

DOH: 01/08/2018

ACTION BEING TAKEN: (CHECK APPROPRIATE BLOCK(S) AND COMPLETE PAGE TWO OF FORM)

- | | |
|---|--|
| <input type="checkbox"/> Written Counseling | <input type="checkbox"/> Suspension Without Pay |
| <input type="checkbox"/> Written Reprimand | <input type="checkbox"/> Performance Improvement Probation |
| <input type="checkbox"/> Suspension <u>With</u> Pay | <input type="checkbox"/> Involuntary Demotion |
| <input type="checkbox"/> Involuntary Transfer | <input checked="" type="checkbox"/> Termination |
| <input type="checkbox"/> Removal From Probation | <input type="checkbox"/> Other (explain) |

** Has employee had prior verbal counseling relevant to this issue? ☐ YES ☐ NO

PROBATION: To become effective on _____, / at _____ AM/PM

To end/return to work on _____, / at _____ AM/PM

SUSPENSION: To become effective on _____, / at _____ AM/PM

To end/return to work on _____, / at _____ AM/PM Total Hours _____

ATTACHMENTS: 1 Pages of relevant documentation leading up to and resulting in the recommended action.

THIS NOTICE WAS: ☒ GIVEN IN PERSON ☐ MAILED DATE MAILED: _____

MAILED TO: _____

If this notice was received through the mail, you are responsible for contacting your immediate supervisor upon receipt of this Pre-Disciplinary form as to whether you do/do not wish a Pre-Disciplinary Conference.

YOUR RIGHTS AS AN EMPLOYEE

IN ACCORDANCE WITH POLK COUNTY POLICY 13.02 PERTAINING TO PRE-DISCIPLINARY PROCEDURES, THIS SERVES AS YOUR WRITTEN NOTIFICATION. AS A REGULAR EMPLOYEE NOT EXEMPT FROM APPEAL PROCEDURE, WHO HAS COMPLETED THE INITIAL PROBATION PERIOD, YOU HAVE THE RIGHT TO A PRE-DISCIPLINARY CONFERENCE PRIOR TO A SUSPENSION WITHOUT PAY, TERMINATION, PERFORMANCE IMPROVEMENT PROBATION OR INVOLUNTARY DEMOTION FOR DISCIPLINARY REASONS. YOU HAVE THE RIGHT TO RESPOND TO THE CHARGES AND/OR ACTION AGAINST YOU ORALLY AND/OR IN WRITING WITH OR WITHOUT SUPPORTING AFFIDAVITS OR STATEMENTS, AS WELL AS THE RIGHT TO APPEAR BEFORE A PRE-DISCIPLINARY CONFERENCE OFFICIAL. IF YOU ELECT A PRE-DISCIPLINARY CONFERENCE, YOU MAY BE ACCOMPANIED BY LEGAL COUNSEL OR OTHER REPRESENTATIVES OF YOUR CHOICE. IF YOU ELECT LEGAL COUNSEL, PLEASE BE ADVISED THAT YOUR ATTORNEY'S ROLE WILL BE LIMITED TO ADVISING YOU AND/OR SPEAKING FOR YOU. YOUR ATTORNEY CAN NOT CROSS EXAMINE OR QUESTION THE DECISION MAKERS AT THIS MEETING.

I, DO ☐ I, DO NOT ☐ _____ REQUEST A PRE-DISCIPLINARY HEARING.
EMPLOYEE'S INITIALS

Pre-Disciplinary Conference: Date: _____ Time: _____ AM/PM Place _____

Conference Official _____

I understand that I have the right to present evidence orally or in writing with or without affidavits or statements to support my position. I also understand that if I do not return this request for a Pre-disciplinary Conference within seven (7) calendar days as indicated in section 13.02 of the Employee Handbook, I forfeit all rights to said conference and/or any other appeals process. I also understand that if I request a hearing and disagree with the decision of the Conference Official in my case, I do have a right to file an appeal as outlined under the Post-Disciplinary Appeals Procedure in the Employee Handbook, section 13.03.

Signature of Employee

Date

Signature of Supervisor

Date

ADDITIONAL INFORMATION

1. **CIRCUMSTANCES:** (Briefly describe what happened)

See Attached investigative file and findings.

2. **EXPECTATIONS OF EMPLOYEE:** (Including liability of continued non-conformance)

Management has no further expectations of employee.

3. **MANAGEMENT PLAN:**

Employee Termination

4. **FOLLOW-UP REVIEW:**

☐]YES

☒]NO

IF YES, WHEN: _____

5. **EMPLOYEE COMMENTS:**

3/11/19

DATE



DIVISION DIRECTOR SIGNATURE

DATE

SUPERVISOR SIGNATURE

DATE

EMPLOYEE SIGNATURE

1295 Brice Blvd.
PO Box 1458
Bartow, Florida 33831-1458



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www.polk-county.net

FIRE RESCUE DIVISION

Date: March 11, 2019
To: Anthony P. Stravino, Fire Chief
From: Rick Parnell, Assistant Fire Chief
Subject: 2019-AC-0001 Findings (Ruby)

Administrative Investigation 2019-AC-0001 was conducted by the Office of Professional Standards Investigator Cone. The nature of the complaint was that Firefighter Michael Ruby created unauthorized electronic images while on duty, and shared those images with others through social media.

From my review of the evidence in the investigative file, I have determined that Firefighter Ruby has violated a minimum of three County policies.

First, Firefighter Ruby violated Fire Rescue Policy 109 – Photography and Digital Imagery Policy by creating unauthorized digital images while on duty as documented in this investigative file.

Second, Firefighter Ruby knowingly violated Fire Rescue Policy 108 – Social Media/Networking Policy by posting and sharing unauthorized digital images to social media.

Third, I have also determined that by creating the unauthorized images, sharing them, and subsequently deleting them, Firefighter Ruby has created a Public Records issue that is in violation of Polk County policy 7.1 – Public Records/Public Records Request

In addition, there is strong evidence, through his testimony, that Firefighter Ruby has violated policies 108, 109, and 7.1 on multiple occasions separate from this investigation.

Finally, Firefighter Ruby was still on probation when he violated these policies. Initial fire rescue probation is for a one-year period. His start date was January 8, 2018, and he created the unauthorized digital images prior to January 2, 2019.

Based upon the totality of the convincing evidence, and the seriousness of the violations, and the fact that he was still on probation, I recommend the immediate termination of Firefighter Michael Ruby.



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FIRE RESCUE DIVISION

Date: March 12, 2019
To: Anthony P. Stravino, Fire Chief
From: Rick Parnell, Assistant Fire Chief
Subject: Resignation (Ruby 26890)

Firefighter Michael Ruby was scheduled to report to HR at 9:00 am today for the purpose of receiving the approved discipline outlined in the investigative file 2019-AC-0001. Just prior to 8:00am, Firefighter Ruby tendered his resignation to me in person at Fire Administration. I accepted his resignation. All exit paperwork has been completed by Firefighter Ruby and I consider this case closed at this time, with no further action required or anticipated.